

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1766 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

VIRJI MEGHAJI DAKHI

Versus

DIST SUPERINTENDENT OF POLICE

Appearance:

MR RR TRIVEDI for Petitioner
NOTICE SERVED for Respondent No. 1
MR SP HASURKAR for Respondent No. 3

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 24/12/1999

ORAL JUDGEMENT

In this petition, under Art. 226 of the Constitution of India, the petitioner who has retired as Head Constable,

was born on 17th October, 1922. He was recruited as above Police Constable, Erstwhile state of Junagadh, on 28th January 1948. Upon completion of the 58 years, he retired as police Head Constable on 31st October, 1980. He is getting pension on the basis of service performed upto 58 year of an age.

The contention of the petitioner, is that he had joined the service of Erstwhile State of Junagadh, which came to be merged with the State of Saurashtra on 28th January, 1949, and thereafter, the petitioner continued in service with the State of Saurashtra and he was absorbed in the State of Saurashtra on 1.4.1950. Again the State of Saurashtra merged with the bilingual state of Bombay on 1.11.1956 and the petitioner was also absorbed in the service of the State. Again on bifurcation of the state of Gujarat, on 1.5.1960., and the petitioner was assigned to the Gujarat State and thereafter, he performed his duties as 2nd Gr. Armed Head Constable, and he was promoted as 1st Gr. Armed Head Constable.

It is the case of the petitioner that under the B.C.S.Rules, the Respondent Authority, could not retired him after the completion of 58 years of an age, but in the then State of Junagadh, retirement age was 60 years. In this context, his grievances that, he is not entitled to a period of 2 years which could be considered also for the purpose of pension.

It appears that, respondent Government has taken stand that option was exercised at the relevant time and petitioner was due to retirement only on the completion of the age of 58 years, he could not claim any benefit for the period from 58 to 60. After having considered the facts and the peculiar circumstances, while disposing of this petition, it would be expedient to direct the petitioner to make the representation raising all the grievances which are made in the petitioner within a period of 2 months and upon, such representation, having been made, the respondent will consider the merits of the representation in accordance with rules and intimate to the petitioner. The decision will be taken within 3 months from the date of receipt of such representation. In these circumstances, the petition shall stand disposed off.

In case, the contentions of the representation is adversely decided, liberty may be reserved. In such eventuality, thereof, the separate cause of action will arise and it will be open for the parties to take the permissible action.

Rule discharged. No orders as to cost.